

**UNITED STATES OF AMERICA
NATIONAL CREDIT UNION ADMINISTRATION
Alexandria, Virginia**

In the Matter of

NORTH DADE COMMUNITY
DEVELOPMENT
FEDERAL CREDIT UNION
CHARTER NO. 24593

NCUA Docket No. 13-0032-R3

**STIPULATION AND CONSENT TO ISSUANCE OF A FINAL ORDER
TO CEASE AND DESIST FOR AFFIRMATIVE RELIEF**

The National Credit Union Administration Board ("NCUA Board"), by and through its undersigned counsel, and North Dade Community Development Federal Credit Union ("Credit Union"), hereby stipulate and agree as follows:

1. Consideration. The National Credit Union Administration ("NCUA") is of the opinion that grounds exist to initiate an administrative cease and desist action against Credit Union pursuant to Section 206 of the Federal Credit Union Act ("FCUA"), 12 U.S.C. § 1786. Credit Union, without admitting or denying that said grounds exist (except those set forth as to Jurisdiction in paragraph 2) desires to avoid the time, cost and expense of administrative litigation. Accordingly, Credit Union consents to this Stipulation and the subsequent issuance by the NCUA Board of a Final Order to Cease and Desist For Affirmative Relief ("Order").

2. Jurisdiction.

a. Credit Union is a federal credit union and an insured credit union within the meaning of Section 101 of the FCUA, 12 U.S.C. §§ 1752(1), 1752(7).

b. Pursuant to the authority vested in the NCUA Board under Section 206 of the FCUA, 12 U.S.C. § 1786, and Part 747 of the NCUA Regulations (“Regulations”), 12 C.F.R. Part 747, NCUA is an appropriate federal agency to maintain enforcement proceedings against an insured federal credit union and its directors, officers, and employees, each of which are institution-affiliated parties pursuant to 12 U.S.C. § 1786(r). Therefore, Credit Union is subject to the NCUA Board’s authority to initiate and maintain proceedings against it.

3. Consent. Credit Union consents to the issuance by the NCUA Board of the accompanying Order (the “Order”). Credit Union (including all directors, committee members, officers and employees) agrees that the Order complies with the FCUA and agrees to take the following actions immediately and according to the dates specified:

A. Within 30 days of the effective date of the Order, Cease and Desist transacting any business activity for all money services businesses (MSBs) that are not located within the geographical areas of the Credit Union’s field of membership (FOM) and therefore ineligible for membership. The Credit Union board may request NCUA approval for a longer termination timeline for one or multiple MSB’s funds transfer activities, but only if the board produces contractual or legal obligations, or other compelling evidence of material liability, operational, legal, or other risks, preventing the Credit Union from meeting the 30 day termination deadline.

NCUA will respond in writing as to whether it will accept a termination deadline for one or more MSBs extending beyond 30 days. This will be solely determined by NCUA.

B. Immediately verify that any persons or entities are within the FOM and therefore eligible to join the Credit Union before providing them membership and member services in accordance with the Federal Credit Union Act (the "Act"), 12 U.S.C. §§1757, 1759. Assure that any services provided to persons or entities outside of the FOM who are therefore ineligible for membership are authorized pursuant to the Act.

C. Within 30 days of the effective date of the Order, suspend transacting any business activity for all member MSBs until the Credit Union develops and implements an adequate Bank Secrecy Act/Anti-Money Laundering/Office of Foreign Assets Control (BSA/AML/OFAC) program that provides a system of internal controls to ensure ongoing compliance, independent testing of BSA/AML/OFAC compliance, designation of an individual or individuals responsible for managing BSA compliance, and BSA training for appropriate personnel. The BSA/AML/OFAC program must be approved by the NCUA Regional Director and comply with Part 748 of NCUA regulations, 12 C.F.R. Part 748 as well as applicable Financial Crimes Enforcement Network (FinCEN) regulations found at 31 C.F.R. Part 1020.

D. Engage an individual or firm of BSA/AML/OFAC specialists as a consultant to assist in correcting, at minimum, those BSA/AML/OFAC compliance program deficiencies identified herein. The BSA/AML/OFAC consultant must be approved in advance by the NCUA Regional Director and must have the requisite expertise and experience working with financial institutions and MSBs to ensure compliance with 12 C.F.R. Part 748 and all applicable BSA/AML/OFAC laws and regulations.

E. Within 30 days of the effective date of the Order, hire a new employee or designate a current employee to be the BSA Compliance Officer: such employee must have the knowledge, experience, delegated authority, and resources to ensure compliance with 12 C.F.R. Part 748 and all applicable BSA/AML/OFAC laws and regulations. The BSA Compliance Officer must be approved by the NCUA Regional Director and must have experience ensuring BSA/AML/OFAC compliance with financial institutions with a similar BSA/OFAC risk profile.

F. Within 60 days of the effective date of the Order, complete a comprehensive BSA/AML/OFAC risk assessment with the assistance of the BSA/AML/OFAC consultant. The risk assessment must consider all major BSA/AML/OFAC risks, including but not limited to products, services, types of members, and geographic locations, with analysis of the major risk categories. The Credit Union board must specify in policy how frequently the risk assessment will be reviewed and updated. As part of the risk assessment, the Credit Union must define the characteristics of a high risk member and develop enhanced monitoring procedures for high risk members. The Credit Union must maintain a list of high risk members based on the results of the risk assessment and as part of its BSA/AML/OFAC policy determine the necessary frequency for it to conduct a review and analysis of all activities of high risk members to protect against any additional risk posed by such activities. These reviews must be sufficiently documented to ensure compliance with 12 C.F.R. Part 748 and all applicable BSA/AML/OFAC laws and regulations.

G. Within 60 days of the effective date of the Order, revise and document board approval for all policies relating to BSA, AML, and OFAC. These policies must ensure

compliance with 12 C.F.R. Part 748 and all applicable BSA/AML/OFAC laws and regulations.

The BSA policy must, at a minimum:

- a. Establish a system of internal controls to ensure ongoing compliance;
- b. Require independent testing for BSA compliance (based the credit union's complexity) by an independent third party;
- c. Designate a BSA compliance officer responsible for day-to-day compliance;
- d. Establish training requirements (commensurate with the size and complexity of the institution) for all new employees, current employees, and credit union officials;
- e. Set BSA/AML risk assessment protocol;
- f. Specify the credit union's high risk member criteria and how high risk members are monitored;
- g. Define an adequate process to identify transactions that require a Currency Transaction Report (CTR);
- h. Require that all CTRs must be filed electronically with 15 days of the reportable transaction;
- i. Specify if the Credit Union will allow accounts to be CTR exempt (when permissible);
- j. Explain the criteria and procedures for determine CTR exempt accounts (if applicable);
- k. Document an adequate customer due diligence (CDD) process for identifying suspicious transactions and monitoring accounts for suspicious activity;
- l. Require that all Suspicious Activity Reports (SARs) must be fully completed and filed electronically within 30 days of suspicious activity detection (60 days if the suspect is unknown);

- m. Specify that SARs must be retained for five years;
- n. Document the decision process on whether to file non-mandatory SARs;
- o. Establish how the board of directors will be promptly notified of all SARs filed;
- p. Determine the process for terminating relationships or suspending services to those accounts with ongoing suspicious activity;
- q. Specify what information is required in the monetary instrument log (MIL) for the purchase or issuance, by currency, of credit union checks, cashier's checks, traveler's checks, and money orders between \$3,000 and \$10,000;
- r. Outline the retention periods for all historical compliance records;
- s. Ensure adequate procedures and tracking protocol are followed to comply with FinCEN's 314a program, which requires the Credit Union to review FinCEN 314a notifications sent every two weeks, query its records for data matches, and respond or request additional information about any positive matches within two weeks of each notification as set forth in Section 314(a) of the USA Patriot Act of 2001 (P.L. 107-56) and implementing regulations found at 31 C.F.R. §1010, Subpart E; and
- t. Document if the Credit Union will engage in 314b voluntary information sharing, the protocol to complete annual acknowledgements, and how requests will be reviewed prior to sharing.
- u. Adopt and implement an adequate Customer Identification program (CIP), which must at a minimum:

- i. Establish an adequate CIP for personal, business, and MSB accounts;
 - ii. Require the minimum CIP information (name, date of birth, address, and identification number) prior to account opening;
 - iii. Require verification of the CIP information obtained;
 - iv. Document the process for handling exceptions to the standard CIP policy;
 - v. Require the credit union to retain CIP data for five years after an account is closed and CIP documents for at least five years after an account is opened; and
 - vi. Provide adequate member notice that the Credit Union will request information to verify a potential member's identity;
- v. The OFAC policy must, at a minimum:
- i. Designate a person to be responsible for overseeing compliance with OFAC regulations and blocking funds or transactions (when applicable);
 - ii. Designate a person to be responsible for having the current listing of prohibited countries, organizations, and individuals;
 - iii. Designate a person(s) to be responsible for comparing new and existing accounts with the OFAC prohibited listing;
 - iv. Establish protocol for checking all parties against the OFAC lists prior to transmitting a wire;
 - v. Specify how the credit union will block or freeze the accounts and transactions that are found to match the prohibited OFAC listing;
 - vi. Document the steps needed to report the blocked or rejected accounts to OFAC within 10 days;

- vii. Require that the credit union will submit an annual report of blocked property to the Compliance Programs Division, OFAC, Department of Treasury, Washington, D.C. 20220, by September 30th annually as required pursuant to OFAC regulations found at 31 C.F.R. Parts 500 -599.
- viii. Establish an OFAC training program for employees and officials; and
- ix. Require the credit union to have independent testing of the adequacy of the OFAC compliance program and OFAC risk assessment periodically, at intervals which are reasonable in view of the risk level of the Credit Union's activities and are defined in the Credit Union's OFAC Policy.

H. Within 60 days of the effective date of the Order, ensure all staff and officials are adequately trained on the requirements of 12 C.F.R. Part 748 and all applicable BSA/AML/OFAC laws and regulations and provide the NCUA Regional Director with copies of the Training Materials and documentation that training was completed. Training must be sufficient for staff and officials to perform their responsibilities and ensure compliance with NCUA/BSA/AML/OFAC regulations.

I. Within 90 days of the effective date of the Order, develop a system of internal controls to ensure ongoing compliance with 12 C.F.R. Part 748 and all applicable BSA/AML/OFAC laws and regulations, such as those found at Title 31 C.F.R. Parts V and X. At a minimum, procedures must be developed and implemented to ensure:

- a. Currency Transaction Reports are filed timely, correctly, and in accordance with regulatory requirements and form instructions;
- b. Suspicious activity is monitored, identified, and reported timely and accurately in accordance with regulatory requirements;
- c. Sufficient resources, software, and reports are available to enable staff to review and aggregate transaction activity in all products and services offered to members;
- d. FinCEN 314(a) information requests are reviewed and any matches are reported within timeframes required under 31 C.F.R. §1010, Subpart E;
- e. The member database is regularly and systematically checked against the OFAC Specially Designated Nationals (SDN) List, all OFAC matches are reported timely, and all required actions are taken immediately;
- f. All new members are checked against the OFAC lists prior to opening the account;
- g. All parties in wire transactions are checked against the OFAC lists prior to sending a wire or prior to disbursing funds into accounts on wires received;
- h. Updated risk assessments are completed for all permissible MSBs to determine the risk levels associated with each relationship and when enhanced due diligence is required;

- i. Ongoing due diligence is performed on each permissible MSB account including obtaining each MSBs' written BSA/AML and CIP policies and procedures and copies of the MSBs' BSA/AML independent testing performed;
- j. Verify current FinCEN and state registrations on all permissible MSB accounts; and
- k. Require members to complete a detailed questionnaire of anticipated account activity when establishing an account and assure that the level of due diligence is appropriate for the activity.

J. Within 120 days of the effective date of the Order, engage the services of a qualified, independent third party to conduct BSA/AML/OFAC compliance program testing as required by 748.2(c). This independent third party must be approved in advance by the NCUA Regional Director and must have experience working with financial institutions and MSBs to ensure compliance with 12 C.F.R. Part 748 and all applicable BSA/AML/OFAC laws and regulations.

K. Within 180 days of the effective date of the Order, ensure the independent testing on the BSA/AML/OFAC compliance program is completed and the results are reported to the board of directors and provided to the NCUA Regional Director.

4. Waivers. Credit Union waives its right to an administrative hearing on this Order as provided for in Section 206 of the FCUA, 12 U.S.C. § 1786. It further waives its right to seek judicial review of the Order, or otherwise challenge the validity or legality of the Order.

5. Modification. Credit Union and NCUA agree that the Order will remain in effect unless modified in writing by the Regional Director for NCUA's Region III. Credit Union agrees that

any such modification shall constitute an amendment to the Order and shall be fully enforceable by NCUA.


6. Severability. If any part of this Agreement is found unenforceable for any reason, NCUA and Credit Union agree that all other portions shall remain valid and enforceable.

7. Finality. The Order is issued pursuant to Section 206 of the FCUA, 12 U.S.C. § 1786. Upon its issuance by the NCUA Board, it shall be a final Order, effective and fully enforceable.

WHEREFORE, in consideration of the foregoing, the undersigned, on behalf of the NCUA Board and Credit Union, execute this Stipulation and Consent to Issuance of Cease and Desist Order. The parties may execute this Stipulation and Consent to Issuance of Cease and Desist Order in counterparts.

Dated this 29 day of August 2013.

NATIONAL CREDIT UNION ADMINISTRATION BOARD

By: 
Herbert S. Yolles
Regional Director

NORTH DADE COMMUNITY DEVELOPMENT FEDERAL CREDIT UNION

for
Title: FRANK HALL, JR. Chairman

9/6/13
Date

Sheryl McDiBoire
Title: SECRETARY

9/6/13
Date

Title: Sharon Phipps

Date 9/6/2013

Title: Bernadine L. Hill

Date 9/6/2013

Carla Jones
Title: Carla JONES

9/6/2013
Date